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Department for Business, Innovation & Skills

Corporate Responsibility: Call for Views Response Form

The closing date for this consultation is **27/09/2013**.

Please return completed forms to:

email: corporate.responsibility@bis.gsi.gov.uk

or by post to:

Edward Greatrex
Business Environment Directorate
Department of Business, Innovation and Skills
Level 3, 1 Victoria Street
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Organisation (if applicable): CORE

Address: 24 Highbury Crescent, London N5 1RX

	Large business (over 250 staff)
	Medium business (50 to 250 staff)
	Small business (10 to 49 staff)
	Micro business (up to 9 staff)
	Business representative organisation/trade body
X	Charity or social enterprise – see below
	Trade union or staff association
	Individual
	Central government
	Local Government
	Other (please describe):

CORE is an authoritative and influential network of NGOs, academics, trade unions and legal experts which brings together the widest range of experience and expertise on UK corporate accountability in relation to international development, the environment and human rights. Our aim is to reduce business-related human rights and environmental abuses by making sure companies can be held to account for their impacts both at home and abroad, and to guarantee access to justice for people adversely affected by corporate activity.

Question 1: What more could Government do to encourage a greater number of companies to adopt internationally recognised principles and guidelines in their own corporate responsibility policies? How might Government, in a light touch way, measure this take-up?

In order to fulfil its own state duty to protect human rights and to ensure that companies meet their responsibility to respect human rights, as set out in the UN Guiding Principles on Business and Human Rights and the OECD Guidelines, as well taking action to reduce their environmental impacts, the UK government should go much further by developing the recently released Business and Human Rights Action Plan into a cross-departmental Strategy and adopting a smart mix of legislative measures and voluntary initiatives to drive practice change in companies.

CORE believes that an integrated approach to corporate responsibility is

essential for government and corporate policies to deliver results. The adoption of internationally recognised principles and guidelines in a company's own policies will lead to an improvement in impacts only if the following conditions apply:

1. They are fully reflected in the company's business model.
2. They are reflected in the company's KPIs and in reward and remuneration mechanisms, especially at Board level.
3. They are integrated across all subsidiaries and business units.
4. Companies are incentivised to adhere to these principles (for instance by making incorporation of the principles into company policies a requirement for government contracts) and penalised for non-compliance. Article 45(2)(D) of the EU Procurement Directive 2004/18/EC allows contracting authorities to exclude a supplier from the procurement process if guilty of grave professional misconduct. We would suggest the UK should amend the Procurement Regulations and introduce guidance to make it clear that this could include breaching international human rights legislation where the breach is serious enough to constitute grave misconduct. Regulations and guidance could also ensure that public bodies do not contract with corporations which have committed serious human rights violations abroad, such as employing child labour.
5. Those adversely affected by a company's failure to adhere to these principles have access to a remedy against the company.

Conditions 4 and 5 above require administrative and/or legislative measures on the part of government. We regard improvements in corporate reporting requirements as a light-touch way of ensuring that companies adopt international principles. Government can use the reporting process to encourage companies to look at and understand their own approach to CSR and the social, environmental and human rights impacts and risks of their core business activities. We believe that all large companies should be required to report on these impacts and risks. The government could achieve this by (i) strengthening the draft guidance for companies on how they should report under the recent changes to the Companies Act, and (ii) supporting and seeking to strengthen the EU Commission's proposal on non-financial reporting in the following way:

-all large EU companies and their subsidiaries should be required to report on social, environmental and human rights impacts and risks throughout their supply chains, and on their land, water, materials use and greenhouse gas emissions;

-this reporting should be based on the UNGPs and the OECD guidelines at a minimum;

-the EU Commission should be required to develop guidance for companies

on the new requirements;

-compliance with the new requirement should include a requirement for companies which do not report on these issues to provide a meaningful explanation for not doing so, showing how they have assessed their social, environmental and human rights impacts and risks.

Government can also support the development of good quality guidance, developed via multi-stakeholder processes to assist companies in adopting and implementing international principles in a meaningful way. The emphasis of implementation and 'take-up' should be practice change, led by directors and rolled out across the company. Any measurement of this must be meaningful. It is not sufficient to simply count the number of companies that mention international standards in policy document or CSR reports. Rather, the question should be how companies are implementing the standards and what practice change is occurring as a result? The views of civil society, including human rights defenders and communities affected by UK company activity overseas should be included when the effectiveness of such processes is being evaluated.

Question 2: Should Government encourage more sector-specific initiatives and, if so, how might it do that? Do different sectors need different levels of Government support and involvement?

Sector-specific initiatives can provide a useful way of bringing various actors together and raise awareness within companies of the ways in which their activities can contribute to particular human rights abuses and harm to the environment. However, while such initiatives can deliver improvements, they have often proved largely insufficient in delivering the scale of necessary change to raise standards in business practices across the board, particularly with regard to addressing labour rights abuses in supply chains and improving access to remedy for victims of corporate abuse. The continuing, life-threatening conditions faced by garment supply chain workers in Bangladesh represent one example of this gap between industry codes and the real situation on the ground.

In light of this, CORE believes that the priority for government action should be tougher measures to hold companies accountable for their impacts across all sectors, as well as more targeted government support for sector-specific initiatives.

Question 3: Are comparable, voluntary metrics on social and environmental aspects desirable? What might be the costs and benefits of this? What role should Government play in determining what these metrics might be and how might we encourage more businesses to adopt them?

The government's priority must be to ensure that business understands and complies with existing *legal* requirements in the Companies Act 2006 to report on social, environmental and human rights issues. Compliance needs to be monitored and the requirements properly enforced.

Companies can of course already use voluntary metrics in addition to complying with the law if they think that this will provide a clearer picture of their activities. Comparable metrics are desirable if they reflect international standards, such as those set out in the UN Guiding Principles on Business and Human Rights which are designed to further the protection of human rights and the environment.

Comparable metrics are not desirable if they lack coherence and compatibility with internationally accepted standards or if the process for developing such metrics excludes civil society.

The role of government in persuading business to adopt such metrics should be to create a system of incentives and penalties that will motivate them to do so, for example through integration into government procurement policy.

Question 4: How might businesses demonstrate that the information they voluntarily capture and present is externally verifiable? What might be the costs and benefits of this?

An important starting point is for businesses to conduct thorough human rights and environmental impact assessments at the outset of a project. These should document the full spectrum of the potential project impacts, be shared with affected communities and be subject to independent verification from competent bodies. We believe that any government support for potential projects (such as funding, insurance and 'soft' support from UKTI) should be subject to due diligence being carried out in advance and the company presenting credible options for addressing the potential impacts of the project in a way that respects recognised international standards.

Companies should also report against Key Performance Indicators which can be compared over time.

UK quoted companies are required by law to report annually on social, environmental and (from October 2013) human rights issues. We support the proposal from the European Commission for all large companies to be required to provide this information. We would like to see this proposal strengthened as set out in Q1.

Question 5: How might companies best manage their supply chains more effectively? How might Government help with this?

Effective supply chain management requires companies to understand and address environmental, social and human rights impacts and risks throughout the supply chain.

Companies can do this by:

- Empowering and supporting workers to report abuses, such as dangerous working conditions, and enabling them to defend their rights via recognition of freedom of association and collective bargaining. It is essential that businesses make clear to their suppliers that respect for such core labour standards is not an optional extra.
- Conducting human rights due diligence throughout their supply chains, being transparent about the findings and taking action in conjunction with their suppliers to raise standards.
- Treating supply chain management as a quality control issue, and placing the same emphasis on it as other aspects of quality control.
- Imposing contractual requirements on their suppliers that reflect international standards, with suitable penalties for non-compliance.

Government can require companies to put in place the above measures through a range of administrative and legislative means, for instance a removal from government procurement tenders in the event of supply chain mismanagement.

Question 6: Should companies be obliged to be more responsible for actions within their supply chain? If yes, how could this be achieved without legislation? What would the costs and benefits be?

Yes (see response to Q5 above). It would be difficult to oblige companies to manage supply chains more responsibly without building in incentives and disincentives, for example through government procurement policy. In the absence of appropriate legislative or administrative measures, laggard companies will continue to mismanage supply chains, with serious consequences for workers, consumers and the environment.

As the explicit requirement for quoted companies to report on how they have had regard to 'the need to foster the company's business relationships with suppliers, customers and others' is to be removed from the Companies Act 2006, the draft guidance on the new reporting requirements currently being prepared by the Financial Reporting Council (FRC) needs to articulate the importance of companies understanding, addressing and reporting on social, environmental and human rights impacts and risks in the supply chain.

Proposed EU legislation on non-financial reporting must be strengthened to include a requirement for companies to report on social, environmental and

human rights impacts and risks throughout a company's supply chain.

Question 7: How might Government best support small business to adopt responsible business practices? What particular challenges does Government face in trying to achieve this? How might it overcome such challenges?

Government should convey a clear message that all businesses, regardless of size need to consider the social, human rights and environmental impacts and risks of their core business activities. Obviously the actions that individual businesses should take to ensure that they are acting responsibly will vary greatly depending on factors including size, sector, location and activity.

A joined-up approach is needed by government to encourage trade and business associations to share information on international standards and good practice with their membership and signpost them to effective multi-stakeholder initiatives.

Question 8: How might Government help SMEs publicise their responsible business behaviour?

See answer to Q7.

Question 9: What role does larger business have in supporting smaller business? Is there an imperative for larger businesses to support smaller businesses? How might Government enable this?

See answer to Q7.

Question 10: What are the main barriers to businesses contributing more to social outcomes?

Government should take steps to ensure that stakeholders and the public have a clearer understanding of the role that businesses can and do play within the economy, both in the UK and globally. Access to accurate, reliable information is central to this. BIS should also think carefully what is meant by the term 'social outcomes' used in this consultation. Significant outcomes for society do not necessarily arise solely as a consequence of voluntary action or CSR. For instance, corporate tax payments are a legal requirement which have significant impacts on the ability of governments to improve health and education outcomes through the provision of public services.

UK companies can and do make important contributions to society at home and abroad. However, in some sectors, the pursuit of short-term profits has created a globalised 'race to the bottom' in which companies seek to source raw materials and to produce goods at ever-lower costs. This has serious consequences for the environment and human rights in 'host' countries, and for consumers in the UK. The deaths of over 1100 garment workers (many of them young women) in the collapse of the Rana Plaza factory in Bangladesh and the entry of horsemeat into the human food chain are two recent examples of incidents which could have been avoided had the companies concerned prioritised high standards over low costs.

The pursuit of short-term profit is driven in part by the duty of company directors to promote the success of the company for its members, by maximising shareholder value. This model has come under increasing scrutiny since the financial crisis. In its recent Transparency and Trust Discussion Paper, BIS requested views on the merits of strengthening the responsibilities of banking directors by amending the directors' duties in the Companies Act 2006 to create a primary duty to promote financial stability over the interests of shareholders. We support this proposal and recommend that the government re-examines S.172 as a whole in order to meaningfully incorporate more than merely maximising shareholder value. We believe that amending directors' duties in this way would significantly improve public confidence in business and help to rebuild the relationship between business and society.

Question 11: What more could Government do to make it easier for businesses to support social initiatives? How might Government showcase innovative approaches that others might consider adopting?

No response.

Question 12: How might the relationship between business and society be strengthened? How might Government support this?

Government should take action to make business more accountable for, and transparent about its social, environmental and human rights impacts and risks. The priority areas are:

- **Improved corporate transparency**

The Open Government Partnership initiative focuses on improving transparency so that citizens have clear information about how money is being spent by local and national government, and the quality of services provided. As the private sector plays an increasingly central role in service delivery, it is vital that this principle of openness and accountability applies across the board and includes significant corporate actors as well.

Companies should be required to be more transparent about their social, environmental and human rights impacts and risks, throughout the supply chain. Under the Companies Act 2006, quoted companies are required to report on social and environmental issues, and from October 2013 will be required to report on human rights policies and the impacts of those policies. The FRC is currently preparing voluntary guidance on the revised reporting requirements. While we believe that such guidance should be mandatory, guidance is definitely needed. We recommend that the final guidance includes clear examples and directs companies towards reporting against international standards, such as the UN Guiding Principles on Business and Human Rights.

The proposed EU directive on non-financial reporting would introduce a European-wide narrative reporting requirement for all large EU companies. This would benefit UK companies by creating a level playing field on reporting across the EU. We urge the UK government to support and seek to strengthen the EU Commission's proposal, as set out in Q1.

In addition, the UK should introduce a public register of the beneficial owners of all UK companies. Fraud, tax evasion, corruption and money laundering in the UK and abroad are facilitated by a lack of transparency around the beneficial owners of companies. The UK has decided to focus on this issue and to introduce a register of the beneficial owners of all UK companies. To enhance corporate accountability, such a register must be made public.

- **Access to remedy for people harmed by UK company activity overseas**

While there are well-developed mechanisms which enable UK consumers and workers to hold companies to account for malpractice, it remains extremely difficult for communities and workers overseas to access remedy in the event of corporate malpractice, including serious human rights and environmental abuses. To address this, the UK government must ensure that people who have been adversely affected by the activities of UK-linked companies can hold those companies to account in the UK, both through the courts and via accessible, effective non-judicial mechanisms which can provide remedy.

- **Reviewing corporate purpose**

See response to Q.10, regarding amending directors' duties as set out in the Companies Act 2006.

Question 13: Is there any comment you wish to make on UK business and human rights generally?

While the recent publication of the government's Business and Human Rights Action Plan is welcome and we share the plan's clear expectation that UK companies respect human rights throughout their global operations and supply chains, the real test is whether the plan makes a difference to workers and communities. The government must take a strategic approach to implementing the plan, with high-level involvement across departments, particularly in BIS, the MoJ and DfID. There must be a concrete timetable for the proposed actions set out in the plan and a clear indication from government on how it intends to evaluate the effectiveness of these actions. Going forward, we recommend that the government adopt what John Ruggie described as a 'smart mix' of legislation and voluntary initiatives in its implementation of the UNGPs, rather than continuing to rely solely on voluntary approaches.

Question 14: Should corporate responsibility be recognised as a profession?

No response.

Question 15: What more can Government, business and others do to improve information available to consumers who want to take ethical considerations into account? Does this differ between sectors?

Consumers need information that is accurate and comparable. This could be achieved through, for example:

- Improved labelling of products with regard to international standards.
- The inclusion in companies' annual reports of integrated social, human rights and environmental information, which is externally audited and presented in a way which allows comparison between companies.

Further comments

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

CORE recommends that BIS reconsiders its definition of corporate responsibility, rather than seeing it solely in terms of voluntary activities. The government's responsible business agenda should focus on supporting business to increase their positive impact on society and the environment and reduce their negative impacts. The means to achieve this are likely to be a mix

of both statutory requirements and other non-regulatory measures.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply